
By: **Senator Frosh**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Voluntary Cleanup Program and Brownfields Revitalization Incentive**
3 **Program - Procedures and Requirements**

4 FOR the purpose of providing that certain applicants and certain properties may be
5 eligible to participate in the Voluntary Cleanup Program within the Department
6 of the Environment under certain conditions; authorizing the State to commence
7 a civil action to recover certain punitive damages under certain circumstances;
8 requiring the Department, under certain circumstances, to approve or
9 disapprove a certain status within a certain time; establishing certain fees
10 under certain circumstances; requiring the Department to adopt certain
11 regulations; authorizing the Department to reduce the amount of a certain fee
12 upon a certain demonstration; altering certain procedures for applications to the
13 Voluntary Cleanup Program; altering certain procedures for public participation
14 in the Department's process of approving response action plans; establishing
15 certain liability protection for certain program participants; requiring certain
16 persons to submit certain information to a one-call system in Maryland;
17 requiring certain persons to be responsible for the cost of cleaning up a property
18 under certain conditions; requiring the Department to approve a response action
19 plan for a certain property under certain conditions; prohibiting the Department
20 from modifying certain terms or conditions or relieving certain persons from
21 certain liability; authorizing certain agents or employees to enter certain private
22 land in Baltimore City under certain conditions; altering the process for the
23 distribution and use of certain contributions; requiring the Department to
24 convene a certain work group and to report to certain persons by a certain date;
25 authorizing certain local government bodies to participate in the Brownfields
26 Revitalization Incentive Program within the Department of Business and
27 Economic Development by enacting certain legislation and by providing certain
28 notice; defining certain terms; and generally relating to the Voluntary Cleanup
29 Program and the Brownfields Revitalization Incentive Program.

30 BY repealing and reenacting, with amendments,
31 Article 83A - Department of Business and Economic Development
32 Section 5-1401(j) and 5-1408(a)
33 Annotated Code of Maryland
34 (2003 Replacement Volume)

1 BY adding to
2 Article - Environment
3 Section 7-266.1 and 7-506.1
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 2003 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Environment
8 Section 7-501(e), (g), and (j), 7-505, 7-506, 7-509, 7-510(a), 7-511(a), 7-512(a),
9 7-514, and 7-515
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 12-111(f)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Tax - Property
19 Section 9-229(g)
20 Annotated Code of Maryland
21 (2001 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 83A - Department of Business and Economic Development**

25 5-1401.

26 (j) (1) "Brownfields site" means:

27 (i) An eligible property, as defined in § 7-501 of the Environment
28 Article, that is:

29 1. Owned or operated by[:

30 A. An] AN inculpable person, as defined in § 7-501 of the
31 Environment Article[: or

32 B. An innocent purchaser that meets the requirements set
33 forth in § 7-201(x)(2)(i) of the Environment Article]; and

1 1. MAY BE ASSESSED IN AN AMOUNT NOT TO EXCEED THREE
2 TIMES THE AMOUNT OF THE COSTS THAT WERE INCURRED BY THE STATE AFTER
3 THE DATE ON WHICH THE FINAL ORDER WAS ISSUED AND AS A RESULT OF THE
4 FAILURE TO COMPLY WITHOUT SUFFICIENT CAUSE;

5 2. SHALL BE IN ADDITION TO ANY COSTS RECOVERED FROM
6 THE RESPONSIBLE PERSON UNDER § 7-221 OF THIS SUBTITLE; AND

7 3. MAY BE IN ADDITION TO ANY OTHER REMEDIES
8 AVAILABLE AT LAW OR IN EQUITY.

9 (2) A RESPONSIBLE PERSON SHALL BE ENTITLED TO A CONTESTED
10 CASE HEARING FOR A DETERMINATION OF WHETHER THE RESPONSIBLE PERSON
11 FAILED WITHOUT SUFFICIENT CAUSE TO COMPLY WITH A FINAL ORDER OF THE
12 STATE UNDER THIS SUBTITLE.

13 7-501.

14 (e) "Contamination" means a release, discharge, or threatened release of:

15 (1) [a] A controlled hazardous substance, as defined in § 7-201 of this
16 title; OR

17 (2) OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.

18 (g) (1) "Eligible property" means property that is contaminated or perceived
19 to be contaminated.

20 (2) "Eligible property" does not include property that is:

21 (i) On the national priorities list under § 105 of the federal act;

22 (ii) [Under] EXCEPT AS PROVIDED IN PARAGRAPH (3)(I) OF THIS
23 SUBSECTION, UNDER active enforcement; or

24 (iii) Subject to a controlled hazardous substances permit issued in
25 accordance with Title 7 of this article.

26 (3) (I) "ELIGIBLE PROPERTY" MAY INCLUDE A SITE UNDER ACTIVE
27 ENFORCEMENT IF:

28 1. AN APPLICATION FILED IN CONNECTION WITH THE
29 PROPERTY IS FILED BY AN INCULPABLE PERSON;

30 2. ANY RESPONSE ACTION PLAN AND CLEANUP CRITERIA
31 APPROVED BY THE DEPARTMENT UNDER THIS SUBTITLE ARE AT LEAST AS
32 PROTECTIVE OF PUBLIC HEALTH AND THE ENVIRONMENT AS THE REQUIREMENTS
33 OF ANY OUTSTANDING ACTIVE ENFORCEMENT ACTION; AND

1 (1) New contamination that the person causes or contributes to at the
2 eligible property; and

3 (2) Exacerbation of existing contamination at the eligible property.

4 7-506.

5 (a) To participate in the Program, an applicant shall:

6 (1) Submit an application, on a form provided by the Department, that
7 includes:

8 (i) Information demonstrating to the satisfaction of the
9 Department that the contamination did not result from the applicant knowingly or
10 willfully violating any law or regulation concerning controlled hazardous substances;

11 (ii) Information demonstrating the person's status as a responsible
12 person or an inculpable person;

13 (iii) Information demonstrating that the property is an eligible
14 property as defined in § 7-501 of this subtitle;

15 (iv) A detailed report with all available relevant information on
16 environmental conditions including contamination at the eligible property known to
17 the applicant at the time of the application;

18 (v) An environmental site assessment that includes established
19 Phase I and Phase II site assessment standards and follows principles established by
20 the American Society for Testing and Materials and that demonstrates to the
21 satisfaction of the Department that the assessment has adequately investigated all
22 potential sources and areas of contamination; and

23 (vi) A description, in summary form, of a proposed voluntary
24 cleanup project that includes the proposed cleanup criteria under § 7-508 of this
25 subtitle and the proposed future use of the property, if appropriate; and

26 (2) Pay to the Department:

27 (I) [an] AN INITIAL application fee of \$6,000[, unless the
28 Department determines that a lesser fee would be sufficient to cover the costs
29 described in subsection (d) of this section]; AND

30 (II) AN APPLICATION FEE OF \$2,000 FOR EACH APPLICATION
31 SUBMITTED SUBSEQUENT TO THE INITIAL APPLICATION FOR THE SAME PROPERTY.

32 (B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH
33 CRITERIA TO DETERMINE AN APPLICANT'S STATUS FOR A DEMONSTRATION OF
34 FINANCIAL HARDSHIP.

35 (2) BASED ON THE APPLICANT'S DEMONSTRATION UNDER THE
36 CRITERIA ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE

1 DEPARTMENT MAY REDUCE THE AMOUNT OF THE INITIAL APPLICATION FEE
2 REQUIRED UNDER SUBSECTION (A)(2)(I) OF THIS SECTION.

3 (C) (1) THE APPLICANT MAY DELAY SUBMITTING THE PHASE II SITE
4 ASSESSMENT UNTIL AFTER THE APPLICATION AND APPLICABLE FEES ARE
5 SUBMITTED.

6 (2) IF AN APPLICANT DELAYS FILING A PHASE II SITE ASSESSMENT, ALL
7 RELATED DEADLINES FOR PUBLIC NOTICE AND ACTION BY THE DEPARTMENT SHALL
8 BE EXTENDED AND CONFORM WITH THE DATE THE PHASE II SITE ASSESSMENT IS
9 SUBMITTED AND THE APPLICATION IS COMPLETE.

10 (D) (1) ON SUBMISSION OF THE APPLICATION, THE DEPARTMENT SHALL
11 PUBLISH A NOTICE OF THE APPLICATION ON ITS WEBSITE AND THE APPLICANT
12 SHALL POST A NOTICE AT THE PROPERTY THAT IS THE SUBJECT OF THE
13 APPLICATION.

14 (2) THE NOTICES REQUIRED UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION SHALL INCLUDE:

16 (I) THE NAME AND ADDRESS OF THE APPLICANT AND THE
17 PROPERTY; AND

18 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
19 OFFICE WITHIN THE DEPARTMENT FROM WHICH INFORMATION ABOUT THE
20 APPLICATION MAY BE OBTAINED.

21 (3) THE DEPARTMENT SHALL RECEIVE WRITTEN COMMENTS FROM THE
22 PUBLIC ON THE APPLICATION FOR 30 DAYS AFTER THE PUBLICATION OR POSTING,
23 WHICHEVER IS LATER, OF THE NOTICES REQUIRED UNDER THIS SUBSECTION.

24 [(b)] (E) (1) (i) The Department shall notify the applicant in writing, within
25 [60] 45 days after receipt of the application, whether:

26 1. The application, including the applicant's status as a
27 responsible person or an inculpable person, is approved;

28 2. The application is denied or incomplete; or

29 3. The Department has no further requirements related to
30 the investigation of controlled hazardous substances at the eligible property as
31 provided in paragraph (3) of this subsection.

32 (ii) If the Department denies the application or determines that the
33 application is incomplete, the Department shall provide to the applicant the reasons
34 for its decision in writing.

35 (2) (i) An applicant may resubmit an application within 60 days after
36 receipt of notice of the Department's decision to deny the initial application or
37 determination that the application is incomplete.

1 (ii) The Department shall approve or deny a resubmitted or revised
2 application within 30 days after receipt.

3 (3) If the Department notifies the applicant that the Department has no
4 further requirements at the eligible property in accordance with paragraph (1)(i)3 of
5 this subsection, the Department shall include a statement that this notice does not:

6 (i) Subject to the provisions of § 7-505 of this subtitle, prevent the
7 Department from taking action against any person to prevent or abate an imminent
8 and substantial endangerment to the public health or the environment at the eligible
9 property;

10 (ii) Remain in effect if the notice of no further requirements is
11 obtained through fraud or a material misrepresentation;

12 (iii) Affect the authority of the Department to take any action
13 against a responsible person concerning previously undiscovered contamination at an
14 eligible property after a no further requirements notice has been issued by the
15 Department; or

16 (iv) Affect the authority of the Department to require additional
17 cleanup for future activities at the site that result in contamination by hazardous
18 substances.

19 (4) THE NO FURTHER REQUIREMENTS NOTICE SHALL:

20 (I) PROVIDE THE SAME LIABILITY PROTECTIONS AS THOSE
21 PROVIDED UNDER § 7-513(B)(3) AND (4) OF THIS SUBTITLE; AND

22 (II) NOTIFY THE APPLICANT THAT THE DEPARTMENT MAY NOT
23 PROVIDE PROTECTION FROM CLAIMS, DEMANDS, COSTS, OR DAMAGES UNDER
24 FEDERAL LAW.

25 (5) THE PARTICIPANT OR A SUCCESSOR IN INTEREST IN A PROPERTY
26 SUBJECT TO A NO FURTHER REQUIREMENTS NOTICE MAY NOT BE LIABLE IN THE
27 EVENT OF A SUBSEQUENT VIOLATION OF THE CONDITIONS PLACED ON THE USE OF
28 THE PROPERTY, IF THE PARTICIPANT OR THE SUCCESSOR IN INTEREST:

29 (I) DID NOT CAUSE OR CONTRIBUTE TO THE VIOLATION; AND

30 (II) WITHIN 30 DAYS NOTIFIED:

31 1. THE DEPARTMENT OF A TRANSFER IN INTEREST; AND

32 2. ANY OTHER SUCCESSOR IN INTEREST OF ALL
33 RESTRICTIONS ON THE PROPERTY.

34 [(c)] (F) (1) The Department shall deny an application if:

35 (i) The applicant is not an eligible applicant;

- 1 (ii) The property is not an eligible property; or
- 2 (iii) The property was initially contaminated by a release of
3 hazardous substances after October 1, 1997 unless:
- 4 1. The property is acquired by an inculpable person; or
- 5 2. The contamination was caused by an act of God.

6 (2) For the purposes of paragraph (1) (iii) of this subsection, any property
7 identified in the Comprehensive Environmental Response, Compensation, and
8 Liability Information System in accordance with the federal act as of October 1, 1997
9 is presumed to have been initially contaminated on or before October 1, 1997.

10 [(d) (1) If the direct costs of review of the application and administration and
11 oversight of the response action plan exceed the application fee, the Department shall
12 require an applicant or participant to pay to the Department the additional costs
13 incurred by the Department.

14 (2) If the direct costs of review of the application and administration and
15 oversight of the response action plan are less than the application fee, the
16 Department shall refund to the applicant or participant the difference between the
17 costs incurred and the application fee.

18 (e)] (G) (1) Within 30 days after receiving notification of approval of an
19 application, a participant shall inform the Department in writing whether the
20 participant intends to proceed or withdraw from the Program.

21 (2) If a participant does not notify the Department of the participant's
22 intent to proceed or withdraw in accordance with paragraph (1) of this subsection, the
23 application will be deemed to be withdrawn.

24 [(f)] (H) A determination by the Department that it has no further
25 requirements may be transferred to a subsequent purchaser of the property provided
26 that the subsequent purchaser did not cause or contribute to the contamination.

27 [(g)] (I) (1) If a determination by the Department that it has no further
28 requirements is conditioned on certain uses of the property or on the maintenance of
29 certain conditions, the participant shall record the determination in the land records
30 of the local jurisdiction within 30 days after receiving the determination.

31 (2) If the determination by the Department that it has no further
32 requirements is conditioned on certain uses of the property or on the maintenance of
33 certain conditions and the participant fails to record the determination in the land
34 records in accordance with paragraph (1) of this subsection, the determination shall
35 be void.

36 (3) (I) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO
37 FURTHER REQUIREMENTS IS CONDITIONED ON CERTAIN USES OF THE PROPERTY OR
38 ON THE MAINTENANCE OF CERTAIN CONDITIONS, THE PARTICIPANT SHALL SEND A

1 COPY OF THE DETERMINATION TO A ONE-CALL SYSTEM AS DEFINED IN § 12-101 OF
2 THE PUBLIC UTILITY COMPANIES ARTICLE.

3 (II) NOTWITHSTANDING THE OBLIGATION OF THE PARTICIPANT TO
4 SEND THE INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
5 PARAGRAPH, AN OWNER, AS DEFINED IN § 12-101 OF THE PUBLIC UTILITY
6 COMPANIES ARTICLE, SHALL BECOME A MEMBER OF THE ONE-CALL SYSTEM UNDER
7 TITLE 12 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

8 (J) SUBJECT TO THE PROVISIONS OF § 7-516(A) OF THIS SUBTITLE AND
9 APPROVAL BY THE DEPARTMENT, IF AN OWNER OF AN ELIGIBLE PROPERTY THAT
10 HAS LIMITED PERMISSIBLE USES WANTS TO CHANGE THE USE OF THE ELIGIBLE
11 PROPERTY, THE OWNER IS RESPONSIBLE FOR THE COST OF CLEANING UP THE
12 PROPERTY TO THE APPROPRIATE STANDARD.

13 7-506.1.

14 (A) IF A DETERMINATION BY THE DEPARTMENT THAT IT HAS NO FURTHER
15 REQUIREMENTS IS CONDITIONED ON CERTAIN USES OF THE PROPERTY OR ON THE
16 MAINTENANCE OF CERTAIN CONDITIONS, THE PARTICIPANT SHALL PAY TO THE
17 DEPARTMENT A FEE OF \$2,000.

18 (B) IF A CERTIFICATE OF COMPLETION IS CONDITIONED ON THE
19 PERMISSIBLE USE OF THE PROPERTY, THE PARTICIPANT SHALL PAY TO THE
20 DEPARTMENT A FEE OF \$2,000.

21 (C) ON THE REQUEST OF A PARTICIPANT TO ALTER A RECORD OF
22 DETERMINATION IN THE LAND RECORDS FOR AN ELIGIBLE PROPERTY WITH
23 CONDITIONS IN ACCORDANCE WITH § 7-506(I) OR § 7-514(D) OF THIS SUBTITLE, THE
24 PARTICIPANT SHALL PAY TO THE DEPARTMENT A FEE OF \$2,000.

25 7-509.

26 (a) Upon submission of a proposed response action plan, the participant:

27 (1) Shall publish a notice of a proposed response action plan once a week
28 for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the
29 geographical area in which the eligible property is located that shall include:

30 (i) A summary of the proposed response action plan;

31 (ii) The name and address of the participant and eligible property;

32 (iii) The name, address, and telephone number of the office within
33 the Department from which information about the proposed response action plan may
34 be obtained;

35 (iv) An address to which persons may submit written comments
36 about the proposed response action plan [or request a public informational meeting;
37 and];

1 (v) A deadline for the close of the public comment period by which
2 written comments [or requests for a public informational meeting] must be received
3 by the Department; and

4 (VI) AS APPLICABLE, THE DATE AND LOCATION OF THE PUBLIC
5 INFORMATIONAL MEETING; AND

6 (2) Shall post at the eligible property a notice of intent to conduct a
7 response action plan at that property.

8 (b) THE PUBLIC COMMENT PERIOD UNDER SUBSECTION (A)(1)(V) OF THIS
9 SECTION MAY NOT BE LESS THAN 30 DAYS AFTER THE PUBLICATION OF NOTICE
10 UNDER § 7-506(D)(1) OF THIS SUBTITLE.

11 (C) The Department shall receive written comments from the public for 30
12 days after publication and posting required under this section OR FOR 5 DAYS AFTER
13 ANY INFORMATIONAL HEARING, WHICHEVER IS LATER.

14 [(c)] (D) The Department shall hold a public informational meeting on the
15 proposed response action plan at the participant's expense within [30] 45 days after
16 the Department receives a written request for a meeting from the applicant or the
17 public.

18 7-510.

19 (a) The Department shall approve a response action plan FOR AN ELIGIBLE
20 PROPERTY if the Department determines that the response action plan protects
21 public health and the environment.

22 7-511.

23 (a) Within [120] 75 days after the Department has received a proposed
24 response action plan, the Department, after considering any comments the
25 Department has received under § 7-509 of this subtitle, shall notify the participant in
26 writing that:

27 (1) The response action plan has been approved; or

28 (2) The response action plan has been rejected and shall state the
29 modifications in the response action plan that are necessary to receive the
30 Department's approval.

31 7-512.

32 (a) Except as provided in subsections (b) and (c) of this section, a participant
33 may withdraw from the Program at the time of a pending application or response
34 action plan, or after receiving a certificate of completion, and may not be obligated to
35 complete an application or a response action plan if the participant:

1 (1) Provides 10 days written notice of the anticipated withdrawal to the
2 Department;

3 (2) Stabilizes and secures the eligible property to the satisfaction of the
4 Department to ensure protection of the public health and the environment; and

5 (3) Forfeits any [expended] application [and oversight] fees.

6 7-514.

7 (a) A response action plan approval letter does not:

8 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
9 Department from taking action against any person to prevent or abate an imminent
10 and substantial endangerment to the public health or the environment at the eligible
11 property;

12 (2) Remain in effect if the response action plan approval letter is
13 obtained through fraud or a material misrepresentation;

14 (3) Affect the authority of the Department to take any action against any
15 person concerning new contamination or the exacerbation of existing contamination
16 at an eligible property after a response action plan approval letter has been issued by
17 the Department;

18 (4) Affect the authority of the Department to take any action against a
19 responsible person concerning previously undiscovered contamination at an eligible
20 property after a response action plan approval letter has been issued by the
21 Department;

22 (5) Prevent the Department from taking action against any person who
23 is responsible for long-term monitoring and maintenance as provided in the response
24 action plan; or

25 (6) Prevent the Department from taking action against any person who
26 does not comply with conditions on the permissible use of the eligible property
27 contained in the response action plan approval letter.

28 (b) A certificate of completion does not:

29 (1) Subject to the provisions of § 7-505 of this subtitle, prevent the
30 Department from taking action against any person to prevent or abate an imminent
31 and substantial endangerment to the public health or the environment at the eligible
32 property;

33 (2) Remain in effect if the certificate of completion is obtained through
34 fraud or a material misrepresentation;

1 (3) Affect the authority of the Department to take any action against any
2 person concerning new contamination or exacerbation of existing contamination at an
3 eligible property after a certificate of completion has been issued by the Department;

4 (4) Affect the authority of the Department to take any action against a
5 responsible person concerning previously undiscovered contamination at an eligible
6 property after a certificate of completion has been issued by the Department;

7 (5) Prevent the Department from taking action against any person who
8 is responsible for long-term monitoring and maintenance for failure to comply with
9 the response action plan;

10 (6) Prevent the Department from taking action against any person who
11 does not comply with conditions on the permissible use of the eligible property
12 contained in the certificate of completion; or

13 (7) Subject to the provisions of § 7-512 of this subtitle, prevent the
14 Department from requiring any person to take further action if the eligible property
15 fails to meet the applicable cleanup criteria set forth in the response action plan
16 approved by the Department.

17 (c) A response action plan approval letter or a certificate of completion may be
18 transferred to any person whose actions did not cause or contribute to the
19 contamination.

20 (d) (1) If a certificate of completion is conditioned on the permissible use of
21 the property [for industrial or commercial purposes], the participant shall [record]:

22 (I) RECORD the certificate of completion in the land records of the
23 local jurisdiction within 30 days after receiving the certificate; AND

24 (II) SEND A COPY OF THE CERTIFICATE OF COMPLETION TO A
25 ONE-CALL SYSTEM, AS DEFINED IN § 12-101 OF THE PUBLIC UTILITY COMPANIES
26 ARTICLE.

27 (2) If the certificate of completion has a conditioned use and the
28 participant fails to record the certificate of completion in the land records in
29 accordance with paragraph [(1)] (1)(I) of this subsection, the certificate of completion
30 shall be void.

31 (3) NOTWITHSTANDING THE OBLIGATION OF THE PARTICIPANT TO
32 SEND THE INFORMATION REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION,
33 AN OWNER, AS DEFINED IN § 12-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE,
34 SHALL BECOME A MEMBER OF THE ONE-CALL SYSTEM UNDER TITLE 12 OF THE
35 PUBLIC UTILITY COMPANIES ARTICLE.

36 (e) Subject to the provisions of § 7-516(a) of this subtitle, if an owner of an
37 eligible property that has limited permissible uses wants to change the use of the
38 eligible property, the owner, subject to approval by the Department, is responsible for
39 the cost of cleaning up the eligible property to the appropriate standard.

1 (F) THE PARTICIPANT OR A SUCCESSOR IN INTEREST IN A PROPERTY
 2 SUBJECT TO A CERTIFICATE OF COMPLETION MAY NOT BE LIABLE IN THE EVENT OF
 3 A SUBSEQUENT VIOLATION OF THE CONDITIONS PLACED ON THE USE OF THE
 4 PROPERTY, IF THE PARTICIPANT OR THE SUCCESSOR IN INTEREST:

5 (1) DID NOT CAUSE OR CONTRIBUTE TO THE VIOLATION; AND

6 (2) WITHIN 30 DAYS NOTIFIED:

7 (I) THE DEPARTMENT OF A TRANSFER IN INTEREST; AND

8 (II) ANY OTHER SUCCESSOR IN INTEREST OF ALL RESTRICTIONS
 9 ON THE PROPERTY.

10 7-515.

11 (A) The provisions of §§ 7-256 through 7-268 of this title shall be used and
 12 shall apply to enforce violations of:

13 (1) This subtitle; or

14 (2) Any regulation adopted under this subtitle.

15 (B) AN ACTION TAKEN BY THE DEPARTMENT UNDER THIS SUBTITLE AT A SITE
 16 UNDER ACTIVE ENFORCEMENT MAY NOT:

17 (1) MODIFY THE TERMS AND CONDITIONS OF ANY OUTSTANDING
 18 ACTIVE ENFORCEMENT ORDER, DECREE, JUDGMENT, PERMIT, OR OTHER DOCUMENT
 19 THAT ADDRESSES ENVIRONMENTAL CONTAMINATION AT THE SITE; OR

20 (2) RELIEVE A PERSON WHO IS THE SUBJECT OF AN ACTIVE
 21 ENFORCEMENT ACTION FROM LIABILITY FOR PENALTIES UNDER THE
 22 ENFORCEMENT ACTION.

23 **Article - Real Property**

24 12-111.

25 (f) In Anne Arundel County OR BALTIMORE CITY, an agent or employee, or
 26 one or more assistants of the county, after real and bona fide effort to notify the
 27 occupant or the owner, if the land is unoccupied or if the occupant is not the owner,
 28 may enter on any private land to make test borings and soil tests and obtain
 29 information related to such tests for the purpose of determining the possibility of
 30 public use of the property. If an agent, employee, or assistant is refused permission to
 31 enter or remain on any private land for the purposes set out in this subsection, Anne
 32 Arundel County OR BALTIMORE CITY may apply to a law court of the county where
 33 the property or any part of it is located for an order directing that its agent, employee,
 34 or assistant be permitted to enter and remain on the land to the extent necessary to
 35 carry out the purposes authorized by this subsection. The court may require that
 36 [Anne Arundel County] THE APPLYING JURISDICTION post a bond in an amount

1 sufficient to reimburse any person for damages reasonably estimated to be caused by
2 test borings, soil tests, and related activities. If any person enters on any private land
3 under the authority of this section or of any court order passed pursuant to it and
4 damages or destroys any land or personal property on it, the owner of the property
5 has a cause of action for damages against [Anne Arundel County] THE JURISDICTION
6 THAT DID NOT AUTHORIZE THE ENTRANCE. Any person who knows of an order issued
7 under this subsection and who obstructs any agent, employee or any assistant acting
8 under the authority of the order may be punished for contempt of court.

9

Article - Tax - Property

10 9-229.

11 (g) A [proportional share of a] taxing jurisdiction's contribution for each
12 qualified brownfields site to the Maryland Economic Development Assistance Fund
13 under subsection (c)(2) of this section shall be [designated for financial incentives to
14 be provided for qualified brownfields sites in the jurisdiction making that
15 contribution] USED ONLY FOR BROWNFIELDS SITES IN THE TAXING JURISDICTIONS
16 THAT HAVE ENACTED A BROWNFIELDS PROPERTY TAX CREDIT ORDINANCE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
18 Environment shall convene a work group from representatives of the Department of
19 Planning, the Department of Business and Economic Development, various sectors of
20 local government, real estate professionals, the business community, the banking
21 industry, the environmental community, and members of the public and undertake a
22 review of the Universal Environmental Covenants Act proposed by the National
23 Conference of Commissioners on Uniform State Laws. The work group shall make
24 recommendations to the Department of the Environment, and, in accordance with §
25 2-1246 of the State Government Article, the Senate Education, Health, and
26 Environmental Affairs Committee, and the House Environmental Matters Committee
27 on or before December 31, 2004.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2004.